MT LEGISLATIVE HISTORY

Chapter 360 1981

Bill H _____ (S) 239 Original bill & hist. ✓ C

H. Committee on Business & Industry

Hearing Date(s) MAR 09 ✓ C

_____ ___C

_____ ___C

_____ ___C

Date Out _____ ___C

S. Committee on Business & Industry

Hearing Date(s) FEB 06 ✓ C

FEB 09 ✓ C

_____ ___C

_____ ___C

_____ ___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

ON MOTION, 4/15, CONFERENCE COMMITTEE DISSOLVED
FREE CONFERENCE COMMITTEE APPOINTED
FCC REPORT ADOPTED: 4/16
2ND READING: 4/17, BE CONCURRED IN
ON MOTION, 4/17, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/17, YEAS: 50

HOUSE
ON MOTION, 4/15, CONFERENCE COMMITTEE DISSOLVED
FREE CONFERENCE COMMITTEE REQUESTED

FREE CONFERENCE COMMITTEE REPORT NO. 1: 4/16
2ND READING: 4/21, YEAS: 83; NAYS: 0
ON MOTION, 4/21, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/21, YEAS: 91; NAYS: 2

TRANSMITTED TO GOVERNOR: 4/23/81
ACTION: 4/29, SIGNED
CHAPTER 528

SB 239 -- HAZELBAKER -- AUTHORIZING INSURANCE PREMIUM FINANCE COMPANIES...
INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY: 1/22
HEARING: 2/6
REPORT: 2/9, DO PASS AS AMENDED
2ND READING: 2/11, DO PASS
3RD READING: 2/13, YEAS: 50

TRANSMITTED TO HOUSE: 2/13
REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY: 2/14
HEARING: 3/9
REPORT: 3/12, BE CONCURRED IN, AS AMENDED
2ND READING: 3/20, YEAS: 66; NAYS: 11
SEGREGATED: 3/20
ON MOTION, 3/20, PASSED CONSIDERATION TO 64TH LEGISLATIVE DAY.
2ND READING: 3/23, YEAS: 66; NAYS: 25
SEGREGATED: 3/23, PURPOSE OF AN AMENDMENT
2ND READING: 3/24, AS AMENDED -- YEAS: 71; NAYS: 12
3RD READING: 3/26, YEAS: 78; NAYS: 17

RETURNED TO SENATE WITH AMENDMENTS: 3/26
2ND READING: 4/2, BE CONCURRED IN
3RD READING: 4/4, YEAS: 47; NAYS: 0

TRANSMITTED TO GOVERNOR: 4/10/81
ACTION: 4/14, SIGNED
CHAPTER 360

SB 240 -- HAZELBAKER -- ESTABLISHING STANDARDS FOR COLLECTION, USE AND DISCLOSURE OF INFORMATION GATHERED IN CONNECTION WITH INSURANCE TRANSACTIONS.
INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY: 1/22
HEARING: 2/5
REPORT: 2/21, DO PASS AS AMENDED
2ND READING: 2/24, DO PASS AS AMENDED
3RD READING: 2/25, YEAS: 49; NAYS: 0

TRANSMITTED TO HOUSE: 2/25

ENATE BILL NO. 239

RODUCED BY HAZELBAKER

IN THE SENATE

Introduced and referred to Committee on Business and Industry.

Committee recommend bill do pass as amended. Report adopted.

Bill printed and placed on members' desks.

Second reading, do pass.

Correctly engrossed.

Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

Introduced and referred to Committee on Business and Industry.

Committee recommend bill be concurred in as amended. Report adopted.

Second reading, pass con-

Second reading, concurred in as amended.

Third reading, concurred in as amended. Ayes, 78; Noes, 17.

IN THE SENATE

Returned from House with amendments.

On motion, consideration be passed for the day.

Second reading, amendments concurred in.

Third reading, amendments concurred in. Ayes, 47; Noes, 0. Sent to enrolling.

Reported correctly enrolled.

SENATE BILL NO. 239

INTRODUCED BY Hall

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING CREATION OF INSURANCE PREMIUM FINANCE COMPANIES; PROVIDING FOR LICENSES, FEES, AND RENEWALS; PROVIDING FOR INVESTIGATION OF APPLICANTS; PROVIDING FOR REVOCATION AND SUSPENSION OF LICENSES; REQUIRING MAINTENANCE OF RECORDS; PROVIDING FOR THE CONTENT, FORM, AND DELIVERY OF PREMIUM FINANCE AGREEMENTS; ESTABLISHING METHODS OF COMPUTING CHARGES; REGULATING DELINQUENCY CHARGES; PROVIDING FOR CANCELLATION UPON DEFAULT; REQUIRING RETURN OF UNEARNED PREMIUMS; AND PROVIDING FOR SECURITY INTEREST."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [This act] may be cited as the "Insurance Premium Finance Company Act".

Section 2. Definitions. As used in [this act], the following definitions apply:

(1) "Insurance premium finance company" means a person engaged in the business of entering into premium finance agreements with insureds or of acquiring such premium finance agreements from insurance agents, brokers, or other premium finance companies.

(2) "Licensee" means a premium finance company holding a license issued by the commissioner under [this act].

(3) "Premium finance agreement" means an agreement by which an insured or prospective insured promises to pay to a premium finance company the amount advanced or to be advanced under the agreement to an insurer or to an insurance agent or broker in payment of premiums on an insurance contract, together with a service charge as authorized by [this act], and as security therefor the insurance premium finance company receives an assignment of the unearned premium.

Section 3. License -- required -- fee -- renewal of license. (1) Except as provided in subsection (4), no person may engage in the business of financing insurance premiums without first having obtained a license as a premium finance company from the commissioner. Any person who engages in the business of financing insurance premiums in the state without obtaining a license as provided under [this act] is, upon conviction, guilty of a misdemeanor.

(2) The annual license fee is $100. A license may be renewed as of January 1 each year, upon payment of the fee of $100. The license fee shall be paid to the commissioner.

(3) The person to whom the license or the renewal thereof is issued shall file sworn answers, subject to the penalties of perjury, to such interrogatories as the commissioner may require. The commissioner may, at any time,

INTRODUCED BILL
SB 239

require the applicant fully to disclose the identity of all stockholders, partners, officers, and employees, and he may, in his discretion, refuse to issue or renew a license in the name of any firm, partnership, or corporation if he is not satisfied that any officer, employee, stockholder, or partner thereof who may materially influence the applicant's conduct meets the standards of [this act].

(4) No person other than a savings and loan association, bank, trust company, or licensed sales finance company, credit union, or resident insurance agent who, within 15 days after entering into an insurance premium finance agreement, transfers the agreement to a licensee or to any of the organizations exempt under this subsection may engage in the business of entering into, acquiring, or holding insurance premium finance agreements unless licensed to do so by the commissioner.

Section 4. Investigation of applicant -- qualifications -- hearing. (1) Upon the filing of an application and the payment of the license fee, the commissioner shall make an investigation of each applicant and shall issue a premium finance company license if the applicant is qualified in accordance with [this act]. If the commissioner does not so find, he shall within 30 days after he has received the application, at the request of the applicant, give the applicant a full hearing.

(2) The commissioner shall issue or renew a license as may be applied for when he is satisfied that the person to be licensed:

(a) is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for;

(b) has a good business reputation and has had experience, training, or education so as to be qualified in the business for which the license is applied for; and

(c) if a corporation, is a corporation incorporated under the laws of the state or a foreign corporation authorized to transact business in the state.

Section 5. License revocation -- suspension. The commissioner may revoke or suspend the license of a premium finance company when and if after investigation it appears to the commissioner that:

(1) a license issued to the company was obtained by fraud;

(2) there was misrepresentation in the application for the license;

(3) the holder of the license has otherwise shown himself untrustworthy or incompetent to act as a premium finance company; or

(4) the company has violated any provisions of [this act].

Section 6. Records required of licensees -- form -- inspection. (1) Every premium finance company shall maintain records of its premium finance transactions, and the records shall be open to examination and investigation by the commissioner. The commissioner may at any time require the company to bring such records as he may direct to the commissioner's office for examination.

(2) Every premium finance company shall preserve its records of premium finance transactions for at least 3 years after making the final entry in respect to any premium finance agreement. The records may be preserved in photographic form.

Section 7. Premium finance agreements -- contents -- form -- delivery. (1) A premium finance agreement shall:

(a) be dated, signed by the insured or by any person authorized in writing to act in behalf of the insured, and the printed portion thereof shall be in at least 8-point type;

(b) contain the name and place of business of the insurance agent negotiating the related insurance policy, the name and residence or the place of business of the insured as specified by him, the name and place of business of the premium finance company to which payments are to be made, and a description of the insurance policies involved and the amount of the premium therefor; and

(c) set forth when applicable:

(i) the total amount of the premiums;

(ii) the amount of the downpayment;

(iii) the principal balance (the difference between the items enumerated in subsections (1)(c)(i) and (1)(c)(ii));

(iv) the amount of the service charge;

(v) the balance payable by the insured (the sum of the items enumerated in subsections (1)(c)(iii) and (1)(c)(iv)); and

(vi) the number of installments required, the amount of each installment expressed in dollars, and the due date or period thereof.

(2) The items set out in subsection (1)(c) need not be stated in the sequence or order in which they appear in that subsection, and additional items may be included to explain the computations made in determining the amount to be paid by the insured.

(3) The information required by subsection (1) may only be required in the initial agreement if the premium finance company and the insured enter into an open end credit transaction, which is defined as a plan prescribing the terms of credit transactions that may be made thereunder from time to time and under the terms of which a finance charge may be computed on the outstanding unpaid balance from time to time thereunder.

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(4) The premium finance company or the insurance agent shall deliver to the insured or mail to him at his address shown in the agreement a complete copy of the agreement.

Section 8. Charges for premium financing regulated -- method of computation. (1) A premium finance company may not charge, contract for, receive, or collect a service charge other than as permitted by [this act].

(2) The service charge must be computed on the balance of the premiums due (after subtracting the down payment made by the insured in accordance with the premium finance agreement) from the effective date of the insurance coverage for which the premiums are being advanced to and including the date when the final payment of the premium finance agreement is payable.

(3) The service charge may not exceed interest at the nominal annual rate of 21%, plus an additional charge of $12.50 per premium finance agreement which need not be refunded upon cancellation or prepayment.

(4) An insured may prepay his premium finance agreement in full at any time prior to the due date of the final payment and in such event the unearned service charge shall be refunded. The amount of any such refund must be calculated in accordance with the rule commonly known as the "rule of 78" and shall represent at least as great a proportion of the service charge, if any, as the sum of the

periodic balances after the month in which prepayment is made bears to the sum of all periodic balances under the schedule of payments in the agreement.

Section 9. Delinquency charges regulated. (1) A premium finance agreement may provide for the payment by the insured of a delinquency charge of $1 to a maximum of 5% of the delinquent installment but not to exceed $5 on any installment that is in default for 5 days or more.

(2) If the default results in the cancellation of any insurance contract listed in the agreement, the agreement may provide for payment by the insured of a cancellation charge equal to the difference between any delinquency charge or default charge imposed with respect to the installment in default and $5. A premium finance agreement may also provide for the payment of attorney's fees and court costs if the agreement is referred for collection to an attorney not a salaried employee of the insurance premium finance company.

Section 10. Cancellation of insurance upon default. (1) When a premium finance agreement contains a power of attorney or other authority enabling the insurance premium finance company to cancel any insurance contract listed in the agreement, the insurance contract or contracts may not be canceled by the premium finance company unless such cancellation is effectuated in accordance with this section.

(2) Not less than 10 days' written notice must be mailed to the insured setting forth the intent of the insurance premium finance company to cancel the insurance contract unless the default is cured prior to the date stated in the notice. The insurance agent or broker indicated on the premium finance agreement shall also be mailed 10 days' notice of this action.

(3) Pursuant to the power of attorney or other authority referred to above, the insurance premium finance company may cancel on behalf of the insured by mailing to the insurer written notice stating when thereafter the cancellation shall be effective, and the insurance contract shall be canceled as if such notice of cancellation had been submitted by the insured himself but without requiring the return of the insurance contract. If the insurer or its agent does not provide the insurance premium finance company with a specific mailing address for the purpose of receipt of the above notice, mailing by the insurance premium finance company to the insurer at the address that is on file and of record with the commissioner is considered sufficient notice under this section. The insurance premium finance company shall also mail a notice of cancellation to the insured at his last-known address and to the insurance agent or broker indicated on the premium finance agreement.

(4) All statutory, regulatory, and contractual

restrictions providing that the insurance contract may not be canceled unless notice is given to a governmental agency, mortgagee, or other third party apply whenever cancellation is effected under the provisions of this section. The insurer shall give the prescribed notice in behalf of itself or the insured to any governmental agency, mortgagee, or other third party on or before the second business day after the day it receives the notice of cancellation from the premium finance company and shall determine the effective date of cancellation taking into consideration the number of days' notice required to complete the cancellation.

Section 11. Return of unearned premiums. (1) Whenever a financed insurance contract is canceled, the insurer shall return whatever gross unearned premiums are due under the insurance contract to the premium finance company for the account of the insured or insureds.

(2) If the crediting of the return premiums to the account of the insured results in a surplus over the amount due from the insured, the premium finance company shall refund the excess to the insured, except that no refund is required if such excess amounts to less than $1.

Section 12. Agreement effective as security interest. No filing of the premium finance agreement or recording of a premium finance transaction shall be necessary to perfect the validity of the agreement as a secured transaction as

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against creditors, subsequent purchasers, pledgees, encumbrancers, successors, or assigns.

Section 13. Codification instruction. Sections 1 through 12 are intended to be codified as an integral part of Title 33, and the provisions of Title 33 apply to sections 1 through 12.

-End-

FORTY-SEVENTH LEGISLATIVE SESSION

COMMITTEE ON BUSINESS AND INDUSTRY

SENATE BILLS

Senate BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
239	1/22	1/28	2/7			2/7			
242	1/22	2/2	2/13			2/13			
247	1/22	2/18	2/19	2/19					
249	1/22	2/9	2/13			2/13			
250	1/22	2/16	2/19		2/19				
261	1/22	2/4	2/7	2/7					
263	1/22	2/4	2/7		2/7				
275	1/26	2/4	2/7			2/7			
295	1/27	2/7	2/7	2/7					
299	1/28	2/9	2/11	2/11					
301	1/28	2/6	2/13			2/13			
307	1/28	2/9	2/9			2/9			
324	1/29	2/11	NO ACTION TAKEN						
331	1/30	2/11	2/13			2/13			
333	1/30	2/11	2/11			2/11			

Use a separate sheet for Senate, House Bills, and Resolutions.

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

The meeting of the Business and Industry Committee was called to order by Chairman Frank W. Hazelbaker on February 6, 1981, at 10:00 a.m. in Room 404 of the Montana State Capitol.

All Committee members were present.

Chairman Hazelbaker introduced Senator Dover of Lewistown, who introduced Senate Bill 301, which would allow a public utility to immediately file and charge a schedule of rates that would cover known and measurable changes in an item or items of cost and expense. This would be done in a proceeding before the Public Service Commission to increase utility rates. The Public Service Commission would then make its rate order and order credits or rebates if necessary. Senator Dover stated that Senate Bill 301 is defined to clarify and direct the Public Service Commission to implement what they now have the power to do as described in the Bill. Senator Dover stated that the Amendment would be given by Mr. Jim Hughes of Mountain Bill, and he urged that the Committee give this Bill a "Do Pass".

AMENDMENT: Given by Mr. Jim Hughes of Mountain Bell: Amend Senate Bill 301, as introduced as follows: (1) in the title, page 1, line 5, by inserting following the word "A" and before the word "RATE" the word "GENERAL"; and (2) in Section 1, page 2, line 8, following the word "a" and before the word "proceeding" the word "general". Mr. Hughes also presented the Committee members with a Handout (Please see attached).

Mr. Hughes explained that this is only for the type for which a full-rate order is applied. On the time delay, Mr. Hughes said that we can discuss what we feel is fair and reasonable for the rate of return. These have to be demonstrated as known and reasonable items, the most common of which is known as services. They need $4,000,000 in revenue, one-half of which is needed for taxes. If they get this, they will not be going over what the Law allows. They are just adjusting their rates in accord with what is considered fair and reasonable. In the last 10 years inflation has been running rampant over all rates, and it has risen 21%. If the rate increase is granted, it would only add one-half of the inflationary rate. This utility is concerned that if they cannot get the necessary rate increase, they will not be able to acquire the necessary technology. The cost to the customer is short-term. The long-term gain is not what it should be unless the business is strong enough to sustain it. This includes all the protection and concerns which were raised earlier. The customer is protected here.

PROPONENTS:

Mark Clark, representing the Montana Power Company, stated that the Montana Power Company feels that the Bill, as written, does not apply to municipalities; it should be amended to state this (page

Senator Regan asked the members of the Public Service Commission, in terms ofnine months, how many states have a period of time of less than nine months, and what is the time frame, and Mr. Schneider replied that he did not know. The lowest he has seen is seven months. Usually it is seven to 10 months.

Senator Regan then stated that she is a bit troubled by "known and measurable charge on an item of cost or expense". She asked if there is danger that this language narrows the scope of the rate review? Mr. Bollinger replied that it allows the expenses, but it does not consider the rate of productivity; we cannot match them; we have to have a match. It has to be in some period. This is why we take a test year which can be just as close to when the utility files their case as they can make it. This depends on if their bookkeeping is up to date.

Senator Regan asked if, in granting rate increases do they ever build in any kind of a percentage catch up for a lag year, and are they restricted by Law from doing so, and Mr. Bollinger replied that they can take a nine-month period beyond the test year in regard to revenue or expenses. He said that they do not build in any guaranteed inflatio rates; they expect management to look for that. He said that he does not know if utilities are efficient; he said that utilities are working on this.

Senator Hazelbaker said, to clarify the issue - what do you do about the significant things, and Senator Dover asked if they would be opposed to changing this rate of interest as it was suggested by amendmen

Mr. Hughes replied no; this is such a huge problem to the utilities that they would have to pay the customers. He said that this is a problem which denies that the wages which are known and measurable nda can be seen, are refundable to the other end. He explained that this provides protection for the little man that will not be used for company investment.

Senator Kolstad commented that the Committee has had very good testimony on both sides; some of the opposition has indicated that the power of the Public Service Commission would be increased and the power of the utilities would be increased.

In closing the discussion on Senate Bill 301, Senator Hazelbaker commented that this had been a thorough hearing!

Senator Hazelbaker then interpreted the next matter of business, Senate Bill 239, which he introduced, by saying that this Bill deals with premium finance company. He said that insurance agents often have a sizable insurance premium where it might mean several thousand

dollars. He said that companies outside of Montana will finance the premium in regular payments, and charge an interest rate. He further stated that the insurance agent receives the premium on the policy, and if thecustomer gets behind on his payments and receives a delinquent notice, and the premium has to be paid, there is an adjustment in the end. According to Senator Hazelbaker, this is often used, and the idea is to allow a finance company in Montana to go into the same business and therefore keep the insurance money in Montana.

PROPONENTS:

Ray Conger, an insurance agent and a minority stockholder, stated that he wanted to move the finance company to Montana, but there is nothing in the Law to provide for this. He said that insurance is not a product and therefore is not eligible for the Retail Installment Contract act. The Insurance Department of Montana helped him to find an Act out of the state of Kansas. He said that Montana is unique in not having an Act like this. Our contention as insurance agents is that this should be regulated by the Insurance Department, and he urges "Do Pass".

Mr. Harrison who appeared on behalf of IFG Leasing, said that this is nothing more than a financing tool to put more competition to collect for insurancepremiums by making payments on an accrual basis.

Bill Anderson, Vice President and General Counsel of IFG Leasing, who has headquarters in Great Falls and an office in Billings, stated that he has 175 employees in the State of Montana; they purchased IFG Leasing, and they hope to write this in Montana. He said that the Insurance Division felt that without this Bill, it could not be reviewed in the state. He said that the Department of Business Regulations was against this, because they want to be regulated. If they can write insurance premium financing in Montana, they would like to do this, and they would like to keep their business in the State of Montana, which also brings money into the state.

Lou Conyard, General Manager of Premium Finance Division of IFG, who has an office in Spokane, said that they operate in six states and they also have a Finance Act. He explained that he started this business 12 years ago, and they have an office in Denver which services Colorado, Wyoming, Nevada and Utah. He advised that in this area Montana is the only state which is not involved, and he said that this provides cash flow to the agent. It also helps serve and protect the consumer as an insured. They have grown rapidly, and would like to come into Montana; he explained that there are out-of-state companies which do payment-financing in Montana.

Rodger McGlenn (see handout), stated that they feel that the consumers can best be served by having this service in the State of Montana.

Josephine Driscoll of the Montana Department of Insurance concurred in what has just been said. She stated that this has not formerly been permitted by the insurance laws, and that if we are going to regulate this Bill, we should have the assurance of everyone as to the recent rate change, as we do not want this to violate the usury rights in this state.

OPPONENTS:

None.

Mr. Harrison then commented that in order to establish the interest rate, this being a specific rate as established in this Bill, it would take precedence over any other usury charge which is going to be liefted anyway from the Law. Senator Hazelbaker asked what the interest rate is, and was told that it varies from 18% to 25%, but in the states where it is 25%, they are not using the maximum. This is based on the competition. Senator Hazelbaker then commented that competition might bring this down.

Senator Hazelbaker thanked all the Proponents of Senate Bill 239.

Senator Towe introduced Senate Bill 295, the basis of which is that all motor vehicles purchased by the State of Montana should be American-made. He said that he feels that we should give credit to our own people, and that our state should set a precedent with state vehicles, which would encourage more people to buy American-made automobiles. He suggested the following changes and amendments: After the word "manufactured" on line 11, add "by a U. S. manufacturer". On line 5, in the title, add the same words, and this would then mean that the vehicle must have been manufactured by a U. S. manufacturer and assembled in the United States. Senator Towe then said that in regard to the State of Montana, they already have this provision. He complimented Luther Glenn of the Purchasing Department of the State of Montana for following this provision, and Mr. Glenn replied that the Law would make this stand up, but the problem is that no American manufacturer assembles, in this country, a compact pick-up. He said that many of the purchases of motor vehicles in this country are compact pick-ups, and for that reason the Committee may want to consider an amendment which would add "The Department of Administration may authorize a waiver of this requirement any time it appears that the mechanical demands of the state would not be adequately met by a motor vehicle manufactured by a U. S. manufacturer and assembled in the U. S.". Mr. Glenn concluded by saying that there are now 11 states incorporating this legislation, and four states are now submitting this proposition to their state legislatures as recommended by the state purchasing department.

PROPONENTS:

ROLL CALL

BUSINESS and INDUSTRY COMMITTEE

47th LEGISLATIVE SESSION -- 1981 Date Feb. 1981

NAME	PRESENT	ABSENT	EXCUSED
Goodover, Pat - Vice Chairman	X		
Hazelbaker, Frank - Chairman	X		
Blaylock, Chet	X		
Boylan, Paul	X		
Dover, Harold	X		
Kolstad, Allen	X		
Lee, Gary	X		
Regan, Pat	X		

Each day attach to minutes.

NAME: Ray Conger DATE: 2/6/81

ADDRESS: P.O. Box 4386; Missoula, MT 59806

PHONE: 721-1000

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: Senate Bill 239

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: -

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE BILL 239

There are a number of reasons why this bill needs to be enacted.

1. The Montana insurance codes are silent on the subject of insurance premium financing. Most states codes do treat this subject.

2. Since the financing of insurance premiums is so intimately connected with insurance contracts; premium financing should be regulated by the insurance department. This act will be chapter 19 of Section 33 of the insurance codes.

3. Premium financing by premium finance companies is now being done in Montana by premium finance companies domiciled in other states; presumably being regulated under the laws of the state of domicils.

4. Montana citizens cannot enter the business of premium finance because of the vacuum in the codes.

   A. Insurance is not a product eligible for the retail installment sales act.

   B. Insurance does not fit the consumers small loan act.

5. Enactment will provide opportunity for Montana citizens to compete with out of state companies for this business.

6. This law will bring all premium finance companies under the jurisdiction of the Montana law rather than the present situation.

7. The not to exceed rate of 21% plus $12.50 per agreement is a reflection of the maximum cost of money today. It is somewhat higher than the present installment sales act and less than the consumer loan act. The rates currently - being charged for out of state premium finance companies exceed the above for some agreements and are less than the rate for larger finance agreements.

8. It is expected that the license fee of $100.00 will offset the cost to the department for investigation and licensing.

Ray Conger

February 6, 1981

NAME: Roger McGlenn DATE: 2/6/81

ADDRESS: P.O Box 4848 Helena, MT 59604

PHONE: 442-9555

REPRESENTING WHOM? Consumer/Government Affairs Council
Independent Insurance Agents of Montana

APPEARING ON WHICH PROPOSAL: SB-239

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Tom Harrison DATE: 2/6/81

ADDRESS: 2225 11th Helena

PHONE: 442-6350

REPRESENTING WHOM? FF6 leasing

APPEARING ON WHICH PROPOSAL: 53239

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Lois A Crandall DATE: 5/1/01

ADDRESS: 5425 Martin St S. Salem OR

PHONE: 1-503-390-1034

REPRESENTING WHOM? IFG P. Francis D. U.S.

APPEARING ON WHICH PROPOSAL: SB - 239

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

BEST COPY
AVAILABLE

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: [illegible] Anderson DATE: 2/6/91

ADDRESS: P.O. Box 5021 Great Falls

PHONE: 761-7510

REPRESENTING WHOM? TFH Montana Co.

APPEARING ON WHICH PROPOSAL: SB# 239

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

BEST COPY AVAILABLE

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Fact Sheet
Senate Bill #239
Insurance Premium Finance Company Act

INTRODUCTION

The Premium Finance Act authorizes the creation of Insurance Premium Finance Companies, provides procedures for investigation and licensing of applicants, regulating premium finance transactions and sets interest rates and late charges.

NATURE OF BUSINESS

An Insurance Premium Finance Company (hereinafter "finance company") is a business that finances insurance premiums for a person or business requiring insurance. The finance company pays the insurance premium to the insurance company on behalf of the insured. The insured then repays the premium plus the finance charge in periodic installments to the finance company. This financing arrangement may be used by businesses wishing to acquire insurance as well as consumers.

Many states have acts similar to the present Bill including Minnesota, Washington, Oregon and Oklahoma.

Montana does not have a statute authorizing the financing of premiums and it is presently prohibited by the Commissioner of Insurance. Attorney Generals Anderson and Woodahl respectively ruled that the Retail Installment Sales Act and Consumer Loan Act do not generally regulate the financing of premiums. Notwithstanding this situation, Insurance Premium Financing is being conducted in Montana under the guise that the transactions are being entered into outside the state under the laws of states that do regulate the financing of premiums.

THE ACT

Licensing

Applicants for a Premium Finance License file an application and pay a $100.00 annual license fee to the Commissioner of Insurance. The Commissioner makes an investigation of each applicant to insure that they are of good character and will comply with the requirements of the Act.

Since some financial institutions are regulated by other state and federal law, savings and loan associations, banks, trust companies, licensed finance companies, credit unions and resident insurance agents are exempted from the Act's provisions. For example, banks and savings and loans often finance insurance premiums when an individual purchases a house; finance companies finance insurance premiums with sales under the Retail Installment Sales Act. Insurance agents would be regulated under Senate Bill 210 which will allow them to charge interest on unpaid receivables after 30 days. The Insurance Premium Finance Act is necessary to allow the financing of insurance premiums in transactions that do not involve a loan, credit sale or an otherwise unregulated lender.

The Commissioner may revoke or suspend a license if after an investigation determines that the license was obtained by fraud, misrepresentation on the application, the licensee is untrustworthy or incompetent or the company has violated any provision of the Act. The records of premium finance companies must be maintained for at least three years and shall be open to examination and investigation by the Commissioner.

Regulating the Finance Contract; Charges

Section 7 of the Act establishes requirements for premium finance contracts including the size of the print (8 point) and the disclosure of applicable finance charges. The finance or service charge may not exceed interest at the nominal rate of 21%, plus a set-up charge to a maximum of $12.50 per premium finance agreement, which need not be refunded upon cancellation or prepayment. If an insured prepays his premium loan prior to the due date the unearned contract charge shall be refunded in accordance with the Rule of 78's. A delinquency charge of $1.00 to a maximum of 5% of the delinquent installment but not more than $5.00 may be assessed on any payment that is more than 5 days late. A premium finance agreement may also provide for the payment of attorneys fees and court costs if the agreement is referred to a private law firm for collection.

Cancellation

If a contract contains a clause authorizing cancellation of insurance upon default, the finance company may cancel any insurance contract listed in the agreement by giving 10 days written notice to the insured of the intent to cancel the policy unless the default is cured. The insurance agent or broker is also to be mailed a notice.

The Act also protects other parties interested in seeing that an insurance policy is maintained. The Act recognizes statutory, regulatory and contractual restrictions providing that an insurance contract may not be canceled unless notice is given to a governmental agency, mortgagee or other party. The insurer is to give the prescribed notice to these parties on or before the second business day after the day it receives the notice of cancellation from the finance company and shall determine the effective date of cancellation taking into consideration the number of days of notice required by these parties to complete cancellation.

In the event of cancellation, the unearned premium is returned to the finance company to be applied to the debt of the insured. If a surplus remains the finance company shall refund any surplus larger than $1.00.

Finally, the Act recognizes the UCC provision stating that no filing of a premium finance Agreement or recording of a premium finance transaction is necessary to perfect a security interest in the agreement.

Bill Summaries

SB 239 authorizes the creation of insurance premium finance companies. Such companies would have to be licensed by the insurance commissioner. Insurance premiums would be paid by a finance company to the insurer. The insured would make payments to the finance company on the amount advanced to the insurer for premium payments. A service charge not to exceed an annual rate of 21%, plus a charge of $12.50 per finance agreement could be charged on the amount advanced. Delinquency charges on payments would be allowed. An insurance contract could be canceled for nonpayment. Prepayment would also be allowed.

SB 295 would require the state to purchase only motor vehicles which have been manufactured and assembed in the U.S.

SB 301 would allow a public utility to immediately file and charge a schedule of rates that would cover known and measurable changes in an item or items of cost and expense. This would be done in a proceeding before the public service commission to increase utility rates. The PSC would then make its rate order and order credits or rebates if necessary

HISTORY OF OFFICE OF MONTANA

STATE INSURANCE COMMISSIONER

The position of State Auditor was created by Article VII, Section 1, of the 1889 Constitution of Montana and was continued by Article VI, Section 1, of the 1972 Constitution of Montana. The position of State Auditor, Ex Officio Commissioner of Insurance, was created by Section 2-15-1903 MCA, effective January 1, 1961. The position of State Auditor, Ex Officio Securities Commissioner, was created by Section 2-15-1901, MCA, effective July 1, 1961. The general fiscal duties of the office are provided by Sections 2-18-401 through 2-18-412, 17-1-121, 17-1,122, 17-4-102 (1), 17-4-103 (1), 17-4-105 (2) and (3), and 17-8-305, MCA.

The Insurance Department is headed by the Chief Deputy Commissioner of Insurance. The Securities Department is headed by the Deputy Securities Commissioner. The Audit Department is headed by the Deputy State Auditor. Some of the departments within the office of the State Auditor may be further broken down into divisions and sub-units.

The State Auditor is elected by the qualified voters of Montana, as provided by law, by statewide general election. The State Auditor holds office for a term of four (4) years, and until a successor is elected and qualified. The State Auditor is responsible for administration of the Office of the State Auditor and its departments, serves as Ex Officio Commissioner of Insurance, Ex Officio Securities Commissioner, and superintends the general fiscal concerns of the state.

There are no boards within or attached to the Office of the State Auditor, and there are no advisory councils advising the Office of the State Auditor. By law, the State Auditor is a member of the State Land Board, the State Hail Board, and the State Canvassing Board. The Insurance Department is responsible for providing protection for Montana consumers of insurance. The Insurance Department authorizes and examines insurers, reviews insurance rates and forms, administers security deposits, and collects and distributes premium taxes. The Insurance Department examines and licenses agents, solicitors, and adjusters. The insurance department answers inquiries, investigates and resolves consumer complaints regarding all aspects of insurance, including those involving agents and/or insurers.

General inquiries regarding the Office of the State Auditor may be addressed to the State Auditor. Specific inquiries regarding the functions of a particular department may be addressed to the chief deputy in charge of that department. Specific inquiries for any specific form should be submitted to the particular department. All requests for hearings, declaratory rulings, and participation in rule making may be addressed to the State Auditor unless the notice in the Montana Administrative Register makes specific probision for submissions.

THE MONTANA INSURANCE DEPARTMENT

The Montana Insurance Department is charged with the responsibility of the regulation of the insurance industry for the protection of the insurance buying public, as set forth in Title 33, MCA, as follows:

(1) To provide the insurance buying public with financially solvent companies and to assure them of the solidity of insurers, including examination of the affairs, transactions, accounts, records and assets of each authorized insurer as often as is deemed necessary;

(2) For the purpose of maintaining fairness in insurance transactions, to examine accounts, records, documents and transactions of agents, managers, etc., pertaining to or affecting insurance affairs or proposed insurance affairs;

(3) To collect all insurance and license fees as provided for by the insurance laws of this State;

(4) To require that any insurer transacting business in this State be authorized by a subsisting certificate of authority;

(5) For the protection of the prople of this State, to require that any agent or solicitor must qualify by written examination for license in compliance with the code and be licensed;

(6) To regulate trade practices in the business of insurance by defining, or providing for determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined;

(7) To prompte public welfare by regulating insurance rates as provided in the code, to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize the existence and operation of qualified rating organizations and advisory organizations;

(8) To provide that no basic insurance policy or annuity contract form, or application form where written application is required by law and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the Insurance Department; and

(9) To allocate amounts of funds to be distributed, from premium taxes collected, to other sources, as provided by law, to wit; Firemen and police pension funds, etc.

(10) To investigate all inquiries and complaints made by comsumers regarding companies, agents, solicitors or adjusters, and assist policyholders with settlement of claims.

The following names are those of key personnel of the Office of the State Auditor:

Honorable E.V. "Sonny" Omholt, State Auditor, Ex Officio Insurance Commissioner, Ex Officio Securities Commissioner, Office of the State Auditor, Mitchell Builsing, Helena, Montana 59620.

Josephine M. Driscoll, Chief Deputy Insurance Commissioner, State Insurance Department, Office of the State Auditor, Mitchell Building, Helena, Montana 59620.

James A. Cheetham, Assistant Chief Deputy Insurance Commissioner State Insurance Department, Office of the State Auditor, Mitchell Building, Helena, Montana 59620.

M. Valencia Lane, Chief Legal Counsel, Office of the State Auditor Mitchell Building, Helena, Montana 59620.

Richard Tucker, Deputy Securities Commissioner, State Securities Department, Office of the State Auditor, Mitchell Building, Helena, Montana 59620.

Roy Phelps, Deputy State Auditor, Audit Department, Office of the State Auditor, Mitchell Building, Helena, Montana 59620.

Kathleen Behm, Director, State Central Payroll System, Office of the State Auditor, Mitchell Building, Helena, Montana 59620.

1-800-332-6148

STATE OF MONTANA

OFFICE OF

E. V. "SONNY" OMHOLT

STATE AUDITOR

COMMISSIONER OF INSURANCE
INVESTMENT COMMISSIONER
CENTRAL PAYROLL SYSTEM

HELENA, MONTANA 59601

INSURANCE DEPARTMENT STAFF

ADMINISTRATION

JO DRISCOLL	CHIEF DEPUTY INSURANCE COMMISSIONER
JIM CHEETHAM	ASSISTANT CHIEF AND ADMINISTRATIVE OFFICER
M. VALENICA LANE	CHIEF LEGAL COUNSEL
MARSHA EDDEN	SECRETARY

COMPANY SUPERVISION

TERRY MEAGHER	CHIEF EXAMINER
RENEE JACQUES	ASSISTANT EXAMINER

AGENT'S SUPERVISION

JOYCE MEAGHER	CHIEF LICENSING DIVISION
DOROTHY McENANEY	LICENSING CLERK
MITZI DEVIVIER	LICENSING CLERK

POLICYHOLDERS SERVICE

NORMA SEIFFERT	CHIEF OF DEPARTMENT
AL MARTELLO	COMPLIANCE OFFICER
BOB POST	COMPLIANCE OFFICER
BOB ABBOTT	COMPLIANCE OFFICER
LEE WISE	COMPLIANCE OFFICER
INEZ HOHN	COMPLIANCE OFFICER
MAE O'CONNOR	SECRETARY

POLICY FORMS AND RATES

ANNA LEE ERICKSON	CHIEF RATES & FORMS
LOUISE FORD	LIFE & DISABILITY
DOROTHY O'FALLON	SECRETARY

POLICY HOLDERS SERVICE REPORT

	New Files Opened	Files Closed	Valid Complaints	$ Recovery
April 1979 thru March 1980	2,069	2,236	751	$1,138,489.93

COMPANIES AUTHORIZED June 30, 1980

	No. of Companies
Life & Disability	497
Casualty/Property/Title	459
Fraternals	26
Montana Farm Mutuals	14
Benevolents	2
Motor Clubs	16
Health Service Organization	4
	1018

NO. OF RESIDENT & NON-RESIDENT AGENTS LICENSED at June 30, 1980

LIFE ONLY	3,142
CASUALTY ONLY	1,297
LIFE & CASUALTY	1,114

AGENTS EXAMINATIONS for year ending Dec. 31, 1979

Number of Examinations	1,247
Number Passed	855
Number Failed	392

COLLECTION / EXPENSE REPORT FOR FISCAL YEAR ENDING JUNE 30, 1979

	TOTAL FEES & TAXES COLLECTED	Number of Companies authorized	Overhead and operating expenses	% - Overhead and expenses to Revenue
1962	$ 2,485,565	563	N/A	N/A
1963	2,676,971	564	N/A	N/A
1964	2,854,238	582	$ 69,168	2.4%
1965	2,977,239	620	63,863	2.2%
1966	3,167,053	648	75,499	2.4%
1967	3,415,952	651	91,338	2.7%
1968	3,517,507	707	98,028	2.8%
1969	3,822,617	756	93,376	2.4%
1970	4,931,700	805	114,101	2.3%
1971	5,383,425	823	112,156	2.1%
1972	6,115,751	842	137,565	2.3%
1973	6,812,473	897	142,711	2.1%
1974	7,366,923	945	239,480	3.3%
1975	8,323,217	955	366,842	4.4%
1976	9,483,281	969	338,409	3.6%
1977	11,239,651	956	351,641	3.1%
1978	12,656,322	984	400,108	3.2%
1979	14,367,308	996	394,904	2.7%
1980	15,177,033.	1016	429,232.	2.8%

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STATE OF MONTANA
E. V. "Sonny" Omholt
State Auditor
Commissioner of Insurance
Helena, Montana

INSURANCE DEPARTMENT COLLECTIONS FOR FISCAL YEAR ENDING JUNE 30TH:

	AGT., ETC., LIC. FEES	CO. FEES	FIRE MARSHALL TAX	FIRE-MEN'S PENS. TAX	OTHER THAN LIFE PREMIUM TAX	LIFE & DISABILITY PREMIUM TAX	RETALI-ATION TAX	HEALTH SER. CORP. FEES & TAX	TOTAL	# OF CO. AUTH. IN MT.	DEPT. OPER-ATING EXP.	% OF OPER. EXP. TO REVENUE
1962	$101,165	$ 48,302	$ 27,512	$	$1,182,296	$1,086,353	$39,937	$	$ 2,485,565	563	N/A	N/A
1963	120,955	43,225	27,313		1,290,876	1,154,144	40,458		2,676,971	564	N/A	N/A
1964	91,153	59,897	27,818		1,331,861	1,303,426	40,083		2,854,238	582	$ 69,168	2.4
1965	89,746	47,196	28,722		1,377,099	1,388,658	45,818		2,977,239	620	63,883	2.2
1966	90,004	55,246	29,881		1,480,737	1,460,357	50,828		3,167,053	648	75,400	2.4
1967	89,444	51,316	31,860		1,605,392	1,583,304	54,636		3,415,952	651	91,338	2.7
1968	91,092	56,418	29,972		1,643,372	1,643,098	53,555		3,517,507	707	98,028	2.8
1969	91,037	56,537	34,902		1,786,786	1,774,334	79,021		3,822,617	756	93,376	2.4
1970	99,760	253,806	66,952		2,239,370	2,245,201	26,611		4,931,700	805	104,101	2.3
1971	102,890	261,364	72,487		2,483,581	2,445,508	17,595		5,383,425	823	112,156	2.1
1972	106,524	267,131	129,231		2,921,201	2,665,545	26,119		6,115,751	842	137,565	2.3
1973	116,202	292,854	147,829		3,221,340	3,005,581	28,667		6,812,473	897	142,711	2.1
1974	126,619	301,538	158,521		3,519,525	3,222,842	37,878		7,366,923	945	239,480	3.3
1975	279,201	319,064	182,858		4,013,822	3,487,943	40,329		8,323,217	955	366,842	4.4
1976	274,750	309,253	191,133	381,684	4,591,501	3,690,125	44,835		9,483,281	969	338,409	3.6
1977	268,138	311,295	236,459	472,924	5,804,292	4,054,309	67,425	24,809	11,239,651	956	351,641	3.1
1978	344,201	324,678	274,848	549,670	6,541,861	4,513,215	84,519	23,330	12,656,322	985	400,108	3.2
1979	556,908	338,501	310,103	619,082	7,380,643	5,059,252	77,113	25,706	14,367,308	996	394,904	2.7
1980	417,808	336,024	342,138	684,276	8,049,699	5,232,148	88,253	26,686	15,177,033*	1018**	429,232	2.8

*611% of 1962
**180% of 1962
1018 Actual Companies authorized at 6/30/80 (includes Health Service Corporations, Motor Clubs, Fraternals, Farm Mutuals etc.)

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 7, 1981

The Business & Industry committee met in executive session on the above date in Room 404 of the Capitol building. The meeting was called to order by Senator Hazelbaker, Chairman, at 11:00 a.m.

ROLL CALL: Roll call was taken and all committee members were present.

CONSIDERATION: The following Senate bills were considered by the committee:

SB 239	SB 275	SB 301
SB 295	SB 242	
SB 261	SB 49	
SB 263	SB 147	

DISPOSITION: Senator Lee moved adoption of the amendments which had been considered previously on SB 239. Motion carried. Senator Goodover then moved that SB 239 DO PASS as amended. Motion carried.

Senator Lee moved that SB 295 DO NOT PASS. Motion carried on a vote of 6-2, Senators Kolstad and Regan voting "No".

Motion: SB 261 DO PASS made by Senator Boylan and seconded by Senator Lee. Motion carried

The motions made on SB 263 were: Senator Goodover moved that SB 263 DO PASS. As a substitute motion, Senator Lee moved that SB 263 DO NOT PASS. The latter motion carried on a vote of 6-2 with Senators Goodover and Kolstad voting "No".

The next bill acted on was SB 275. Senator Blaylock moved that SB 275 DO PASS as amended. The motion carried with Senator Regan voting "No".

It was decided by the committee at this time that SB 242 be held for further consideration.

The next bill placed before the committee for action by the Chairman was SB 49 which is the home care bill and amendments for it had been previously adopted at a prior meeting. Senator Regan moved that SB 49 DO PASS as amended. As a substitute motion, Senator Goodover moved that SB 49 DO NOT PASS. The vote on the substitute motion was 4-4.

Senator Regan next moved that SB 49 DO PASS as amended. The vote on this motion was also 4-4. Therefore, SB 49 will remain in committee.

ROLL CALL

BUSINESS and INDUSTRY COMMITTEE

47th LEGISLATIVE SESSION -- 1981 Date 2-07-8

NAME	PRESENT	ABSENT	EXCUSED
Goodover, Pat - Vice Chairman	x		
Hazelbaker, Frank - Chairman	x		
Blaylock, Chet	x		
Boylan, Paul	x		
Dover, Harold	x		
Kolstad, Allen	x		
Lee, Gary	x		
Regan, Pat	x		

Each day attach to minutes.

Proposed Amendments to SB 23

1. Page 3, line 9.
   Following: "licensed"
   Strike: "sales"

2. Page 7, line 15.
   Following: (3)
   Strike: "The"
   Insert: "Notwithstanding any other provision of law, the"

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 2/7/81 Bill No. 239 Time 11:10

NAME	YES	NO
Hazelbaker		
Goodover		
Dover		
Kolstad		
Lee		
Blaylock		
Boylan		
Regan		

Secretary

Chairman

Motion: 2 amendments.

Sen Lee moved adoption of amdmts.

Goodover moved ~~Pass~~ As Amd. Do Pass

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

February 7, 19 81

MR. PRESIDENT:

We, your committee on BUSINESS & INDUSTRY

having had under consideration SENATE Bill No 259

Respectfully report as follows: That SENATE Bill No 259 be amended as follows:

1. Page 3, line 9.
Following: "licensed"
Strike: "sales"

2. Page 7, line 15.
Following: (3)
Strike: "The"
Insert: "Notwithstanding any other provision of law, the"

And as so amended,
DO PASS

HAZELBAKER, Chairman.

STATE PUB. CO.
Helena, Mont.

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3.

HOUSE BUSINESS & INDUSTRY COMMITTEE

47th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 233	To amend 32-5-304, relating to receipts given to a consumer loan borrower to allow for the use of mechanical data processing equipment.	2/9	Haffermar Graham	3/6	BE CONCURRED IN	3/6
SB 218	To remove authority over staffing from the boards of medical examiners, pharmacists, nursing, barbers, cosmetologists, & water well contractors; amend....	2/13	Steve Brown	3/5	BE CONCURRED IN	3/5
SB 239	Authorizing creation of insurance premium finance companies; providing for licenses, fees, & renewals; providing for investigation of applicants; providing for revocation & suspension of licenses; requiring maintenance of records; providing for content, form & delivery of premium finance agreements; establishing methods of computing charges; regulating delinquency charges; providing for cancellation upon default; requiring return of unearned premiums; providing for security interest.	2/14	Hazelbaker	3/9	BE CONCURRED IN AS AMENDED	3/12
SB 261	To authorize commercial banks & savings banks to sell credit life & disability ins. on loans to their borrowers; amend...; immediate effective date.	2/14	Thomas Hazelbaker	3/9	BE CONCURRED IN	3/9

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HOUSE BUSINESS AND INDUSTRY

March 9, 1981

SUMMARY OF BILLS TO BE HEARD TODAY -

SENATE BILL 151 -

Introduced by Sen. Mazurek, revises the state insurance law by removing title insurance from the kinds of coverage that are exempt from the authority of rating organizations.

SENATE BILL 211 -

Introduced by Sen. Hazelbaker, allows insurance agents to extend credit to policy holders. If credit is extended for not more than 30 days, no interest may be charged. If credit is extended for more than 30 days without a note interest of not more than 1 1/2% a month may be charged. If a note is given interest may not exceed the legal rate set in 31-1-107: on amounts up to $150,000, not more than 10% per year or not more than 4% on the discount rate on 90-day commercial paper, on amounts between $150,000and $300,000, not more than 10% per year or 5% over discount rate, on amounts over $300,000 rate may be negotiated between the parties.

SENATE BILL 239 -

Introduced by Sen. Hazelbaker, establishes the "Insurance Premium Finance Company Act." An insurance premium finance company may be licensed by the commissioner of insurance upon payment of a $100 annual fee and meeting other requirements. The bill also allows for revocation of license, for charges allowable, for delinguency charges, and for cancellation of insurance upon default.

SENATE BILL 241 -

Introduced by Sen. Hazelbaker, is intended to enable Montana to meet the requirements of the Social Security Disability Amendments of 1980 that establishes a program of federal certification of Medicare supplemental insurance policies. Known as the "Medicare Supplement Insurance Minimum Standards Act" the bill allows the commissioner of insurance to establish standards for Medicare supplement policies and to set rules for minimum standards for loss ratios on the basis of insured claims and earned premiums. In addition to requiring full disclosure of terms of a policy, the applicant will have 10 days after delivery to return the policy for premium refund for any reason. The act will be effective immediately.

SENATE BILL 261 -

Introduced by Sens. Thomas and Hazelbaker, gives commercial banks and savings banks the right to sell credit life and disability insurance on loans to their borrowers.

SENATE BILL 211 -

SENATOR FRANK HAZELBAKER, District #41, Beaverhead County, sponsor, explained SB 211 contains a statement setting out the finance charge for accounts that are past due, and insurance agents have been practicing the same thing for years. At the bottom of the statement from the agents notes a finance charge for 12% per month is to be charged on past due accounts. The insurance agents discovered they had been doing this without statutory authority and SB 211 has been written to take care of that.

ROGER McGLENN, Independent Insurance Agents of Montana, Inc., is in support of SB 211. See his testimony EXHIBIT B.

RAY CONGER, Missoula, supports SB 211.

JO DRISCOLL advised mutual agents are prohibited from making any charges other than what is shown on their contract. It is nice to have someone carry your debts for you for two or three months although they have to pay the insurance company and many times they have to borrow money to carry that loan. Giving them 30 days to pay their bills, but after that time, they want to charge some interest rate.

OPPONENTS: None

QUESTIONS -

Rep. Fabrega summarized that the first 30 days there is to be no charge, after 30 days 1-1/2% a month may be charged, or a financial contract can be entered into and interest charged from that day on.

Senator Hazelbaker closed saying this just addresses itself to charging interest after 30 days. Interest could be charged from the beginning, but it would have to be based on the present usury statutes. They get a 60-day free ride, but after 60 days it is time you pay a little attention to your accounts receivable. There is some question as to whether a service fee is interest or not.

SENATE BILL 239 -

SENATOR FRANK HAZELBAKER, District #41, Dillon, author of SB 239 explained should a person have premiums of $3,000 but his cash flow doesn't allow him to pay that all at once, so the agent contracts to pay the premium but there is no regulation in the law allowing for this. You can arrange for monthly or quarterly payment and the mechanics are that there is a down payment that goes to the premium finance company at the time the contract is issued and then the finance company will direct bill. This bill is needed to enable agencies in the State of Montana to take the commissions they get on the insurance and keep it in the state. Insurance contracts can be cancelled by an agent or can be cancelled by the insurance company. It has to be in Montana law so this can be done so that a premium finance company can cancel insurance also.

RAY CONGER, Missoula, supports SB 239. He is an insurance agent representing himself. He has been dealing with agencies in Washington and Oregon. He sold his agency operations in Idaho and wanted to bring his premium finance company into Montana so he could continue that service. After checking with the Business Regulation , insurance, and banking departments of the state, he found that insurance premium financing was kind of an orphan. Montana codes were silent on the subject of premium financing and banks told him that they couldn't use this type of financing. Premium financing is already being done, but it is being done by out-of-state companies. Every state that he has ever examined has premium finance laws within their premium installment contracts or consumer banking act or regulated by the insurance department and it is his feeling that the insurance department ought to regulate it because it is very intimately tied up with an insurance contract. See his testimony EXHIBIT C.

BOB JAMES, State Farm Insurance, Great Falls, offered proposed amendments to SB 239 which would exclude companies like the State Farm and all those companies which do have installment pay plans. EXHIBIT D.

DON SMITH, IFG, Great Falls, is a lawyer who has a leasing company in Great Falls which is the major location of their interstate business. They have an insurance premium financing business, the chief place for which is in Spokane and one in Denver. Although their headquarters are in Montana, they cannot operate their premium financing business in Montana, so they engage in it with one of their offices outside the state. The Consumers Loan Act and the Retail Installment Sales Act do not provide for financing these transactions because they are not involved in a sale type operation, but are trying to finance insurance for which there is no provision in Montana law.

Idaho says they are operating under the consumers code in Idaho and unfortunately this does not allow Montana insurance commissioner's office to do so. It is necessary to have the power established by the legislature to license and regulate insurance premium financing companies. It provides a method for financing and a method for regulation and for enforcing financing contracts. He thinks they should be regulated. They will also provide a service to the businessmen in the state who want to finance their insurance premiums over a period of time.

He is not really opposed to Bob James' amendment, but he believes this is covered by SB 211. He thought it could be under the basis of a service charge and it is possible it has been done under that. He has forwarded this amendment to the premium financing company. He hated to see James amendment come in at this late date. See his explicit testimony EXHIBIT E.

RUSS KENDALL, IFG, Great Falls, vice president, supports SB 211.

OPPONENTS: None

QUESTIONS -

Mr. James said he was advised not too long ago by State Farm. He apologized for not bringing it in sooner, but he didn't think it would apply to State Farm.

EXECUTIVE SESSION -

Rep. Harper moved amendments as proposed be amended. Motion carried unanimously. Rep. Bergene moved further amendments as proposed be adopted, and they were by all those present. Reps. Ellerd, Jacobsen, Meyer, and Andreason were absent. Rep. Harper moved further amendments on page 2, line 4 and (c) be deleted in its entirety. Unanimous concurrence. Rep. Manning moved SENATE BILL 178 BE CONCURRED IN AS AMENDED. Motion carried unanimously by those present. The same four representatives were absent. Adopted amendments may be found in the standing committee report dated March 9, 1981.

Rep. Kitselman moved SENATE BILL 151 BE CONCURRED IN. Motion carried unanimously with 3 members absent.

Rep. Kessler moved SENATE BILL 211 BE CONCURRED IN. Motion passed unanimously with 3 members absent.

SB 239 and SB 241 were further discussed. Rep. Fabrega thought a statement of intent could accompany a payment schedule for a policy to clarify SB 239. SB 241 statement of intent could say something that the intent is that the commissioner may not set standards lower than the NAIC requirements, if this will not jeopardize Montana's chance of getting under federal regulations. The concern is if there is flexibility that there be policies of lesser benefits offered to senior citizens.

Rep. Kitselman thought the $50 premium would be too costly for senior citizens. That would make this particular supplement cost $250-$350 per year. Because of time constraints he would suggest compliance with the Baucus Amendment be addressed in 2 years.

Rep. Fabrega said the only problem that appears is that the NAIC has not yet defined requirements. If insurance is available at $16-25 per month and that schedule is higher and provided an option, it would have to be backed by the regulation. We want to make sure that we don't put our right to determine the type of policy in jeopardy.

Rep. Harper recommended amendments be made to the bill because statements of intent might be discontinued in the future.

Rep. Fabrega asked Paul Verdon, the researcher to clean up the language on page 7, lines 15 - 17 for SB 239.

Rep. Manning moved SENATE BILL 261 BE CONCURRED IN. Motion carried unanimously with Reps. Andreason, Meyer, Ellerd absent. This bill allows bank officers to write policies and receive the premiums, and the premiums will have to be paid to the bank for the benefit of stockholders. This is a Comptroller of Currency regulation. National banks can already do this and state banks want parity.

Meeting adjourned at 11:15 a.m.

REP. W. J. FABREGA, Chairman

Jo Lahti, Secretary

ROLL CALL

HOUSE BUSINESS AND INDUSTRY COMMITTEE

47th LEGISLATIVE SESSION, 1981

	29	30	31	32	33	34	35 Date 36		37	38	39	40	41	42
Name	2/17	2/18	2/19	2/20	2/21	2/23	3/3	3/4	3/5	3/6	3/9	3/10	3/11	3/12
ANDREASON, Aaron	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
BERGENE, Toni	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
ELLERD, Bob	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
ELLISON, Orval	✓	✓	✓	E	✓	✓	✓	✓	✓	E	✓	✓	✓	
FABREGA, Jay	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
HARPER, Hal	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
JACOBSEN, Glenn	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
JENSEN, Ray	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
KESSLER, Gerald	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
KITSELMAN, Les	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
MANNING, Dick	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
METCALF, Jerry	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
MEYER, Darryl	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
O'HARA, David	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
PAVLOVICH, Bob	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
ROBBINS, Ken	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
SCHULTZ, Jim	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
VINCENT, John	✓	✓	✓	✓	✓	✓	E	✓	✓	✓	✓	✓		
WALLIN, Norm	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
VERDON, Paul, reseacher	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		

VISITORS' REGISTER

HOUSE _____ COMMITTEE

BILL SB 239 Date _____

SPONSOR _____

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Bob Vance	G. Falls	State Farm	✓	
Tom Kanzler	Helena	IFG Legis	✓	
Roger McGlenn	Helena	IIAM	✓	
Dan Smith	GT Falls	IFG	✓	
Hans Kaufmann	GT Falls	IFG	✓	
Ray Conger	Missoula	Self	2	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Form CS-33
1-81

AMENDMENTS TO THIRD READING COPY OF SENATE BILL 239 -

See Standing Committee report

1. Page 2, line 7.
Following: "a"
Strike: "service"
Insert: "finance"

2. Page 6, line 6.
Following: "of the"
Strike: "service"
Insert: "finance"

3. Page 7, line 6.
Following: "a"
Strike: "service"
Insert: "finance"

4. Page 7, line 8.
Following: "The"
Strike: "service"
Insert: "finance"

5. Page 7, line 16.
Following: "THE"
Strike: "service"
Insert: "finance"
Following: "the"
Strike: "nominal"

6. Page 7, line 17.
Following: "plus"
Strike: "an additional"
Insert: "a service"

7. Page 7, line 18.
Following: "agreement"
Insert: "."
Strike: "which"
Insert: "The service charge of $12.50"

8. Page 7, line 22.
Following: "unearned"
Strike: "service"
Insert: "finance"

9. Page 8, line 1.
Following: "proportion of the"
Strike: "service"
Insert: "finance"

over

Senate Bill 239 amendments continued -

10. Page 11, following line 3.
Insert: "Section 13. Exceptions. [This act] does not apply to any insurance company or insurance companies affiliated under the same management and control authorized to do business in this state which provide installment premium payments programs at no interest to policyholders or to an insurance agent licensed to do business in this state on policies written by the agent or issued by the company or companies."

Renumber: subsequent section

11. Page 11, line 5.
Following: "through"
Strike: "12"
Insert: "13"

12. Page 11, line 7.
Following: "through"
Strike: "12"
Insert: "13"

NAME Ray Conger BILL No. SB 334

ADDRESS Missoula, Mt DATE 2-9-81

WHOM DO YOU REPRESENT Self

SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

Exhibit C

SENATE BILL 239

There are a number of reasons why this bill needs to be enacted.

1. The Montana insurance codes are silent on the subject of insurance premium financing. Most states codes do treat this subject.

2. Since the financing of insurance premiums is so intimately connected with insurance contracts; premium financing should be regulated by the insurance department. This act will be chapter 19 of Section 33 of the insurance codes.

3. Premium financing by premium finance companies is now being done in Montana by premium finance companies domiciled in other states; presumably being regulated under the laws of the state of domicile.

4. Montana citizens cannot enter the business of premium finance because of the vacuum in the codes.

   A. Insurance is not a product eligible for the retail installment sales act.

   B. Insurance does not fit the consumers small loan act.

5. Enactment will provide opportunity for Montana citizens to compete with out of state companies for this business.

6. This law will bring all premium finance companies under the jurisdiction of the Montana law rather than the present situation.

7. The not to exceed rate of 21% plus $12.50 per agreement is a reflection of the maximum cost of money today. It is somewhat higher than the present installment sales act and less than the consumer loan act. The rates currently - being charged for out of state premium finance companies exceed the above for some agreements and are less than the rate for larger finance agreements.

8. It is expected that the license fee of $100.00 will offset the cost to the department for investigation and licensing.

Ray Conger

Bob James State Farm Exhibit D

PREMIUM FINANCE BILL SB 239

Add the following sentence to the definition of "premium finance company":

> An insurance premium finance company does not include an insurance company or insurance companies affiliated under the same management and control authorized to do business in this state which provide installment premium payment programs to policyholders nor does this term include an insurance agent licensed to do business in this state financing premiums on policies written by such agent.

The same objective would be reached by adding, in the alternative, a new section as follows:

> The provisions of this act shall not apply to any insurance company or insurance companies affiliated under the same management and control authorized to do business in this state which provide installment premium payments programs to policy holders nor to an insurance agent licensed to do business in this state financing premiums on policies written by such agent.

This language would be added as a new section to the bill.

Don Smith Exhibit E
Leasing Co.

Fact Sheet
Senate Bill #239
Insurance Premium Finance Company Act

INTRODUCTION

The Premium Finance Act authorizes the creation of Insurance Premium Finance Companies, provides procedures for investigation and licensing of applicants, regulating premium finance transactions and sets interest rates and late charges.

NATURE OF BUSINESS

An Insurance Premium Finance Company (hereinafter "finance company") is a business that finances insurance premiums for a person or business requiring insurance. The finance company pays the insurance premium to the insurance company on behalf of the insured. The insured then repays the premium plus the finance charge in periodic installments to the finance company. This financing arrangement may be used by businesses wishing to acquire insurance as well as consumers.

Many states have acts similar to the present Bill including Minnesota, Washington, Oregon and Oklahoma.

Montana does not have a statute authorizing the financing of premiums and it is presently prohibited by the Commissioner of Insurance. Attorney Generals Anderson and Woodahl respectively ruled that the Retail Installment Sales Act and Consumer Loan Act do not generally regulate the financing of premiums. Notwithstanding this situation, Insurance Premium Financing is being conducted in Montana under the guise that the transactions are being entered into outside the state under the laws of states that do regulate the financing of premiums.

THE ACT

Licensing

Applicants for a Premium Finance License file an application and pay a $100.00 annual license fee to the Commissioner of Insurance. The Commissioner makes an investigation of each applicant to insure that they are of good character and will comply with the requirements of the Act.

Since some financial institutions are regulated by other state and federal law, savings and loan associations, banks, trust companies, licensed finance companies, credit unions and resident insurance agents are exempted from the Act's provisions. For example, banks and savings and loans often finance insurance premiums when an individual purchases a house; finance companies finance insurance premiums with sales under the Retail Installment Sales Act. Insurance agents would be regulated under Senate Bill 210 which will allow them to charge interest on unpaid receivables after 30 days. The Insurance Premium Finance Act is necessary to allow the financing of insurance premiums in transactions that do not involve a loan, credit sale or an otherwise unregulated lender.

The Commissioner may revoke or suspend a license if after an investigation determines that the license was obtained by fraud, misrepresentation on the application, the licensee is untrustworthy or incompetent or the company has violated any provision of the Act. The records of premium finance companies must be maintained for at least three years and shall be open to examination and investigation by the Commissioner.

Regulating the Finance Contract; Charges

Section 7 of the Act establishes requirements for premium finance contracts including the size of the print (8 point) and the disclosure of applicable finance charges. The finance or service charge may not exceed interest at the nominal rate of 21%, plus a set-up charge to a maximum of $12.50 per premium finance agreement, which need not be refunded upon cancellation or prepayment. If an insured prepays his premium loan prior to the due date the unearned contract charge shall be refunded in accordance with the Rule of 78's. A delinquency charge of $1.00 to a maximum of 5% of the delinquent installment but not more than $5.00 may be assessed on any payment that is more than 5 days late. A premium finance agreement may also provide for the payment of attorneys fees and court costs if the agreement is referred to a private law firm for collection.

Cancellation

If a contract contains a clause authorizing cancellation of insurance upon default, the finance company may cancel any insurance contract listed in the agreement by giving 10 days written notice to the insured of the intent to cancel the policy unless the default is cured. The insurance agent or broker is also to be mailed a notice.

The Act also protects other parties interested in seeing that an insurance policy is maintained. The Act recognizes statutory, regulatory and contractual restrictions providing that an insurance contract may not be canceled unless notice is given to a governmental agency, mortgagee or other party. The insurer is to give the prescribed notice to these parties on or before the second business day after the day it receives the notice of cancellation from the finance company and shall determine the effective date of cancellation taking into consideration the number of days of notice required by these parties to complete cancellation.

In the event of cancellation, the unearned premium is returned to the finance company to be applied to the debt of the insured. If a surplus remains the finance company shall refund any surplus larger than $1.00.

Finally, the Act recognizes the UCC provision stating that no filing of a premium finance Agreement or recording of a premium finance transaction is necessary to perfect a security interest in the agreement.

House amendments to Senate Bill 239:

1. Page 7, line 23 through line 4 on page 8.
Following: "refunded." on line 23
Strike: the remainder of line 23 on page 7 through line 4 on page 8 in their entirety

March 12, 1981

SENATE BILL 239

THE HOUSE BUSINESS AND INDUSTRY COMMITTEE amends SB 239 in the third reading copy as follows:

1. Title, line 12.
Following: "PREMIUMS:
Strike: "AND"

2. Title, line 13.
Following: "INTEREST"
Insert: "; AND PROVIDING FOR CERTAIN EXCEPTIONS"

3. Page 2, line 7.
Following: "a"
Strike: "service"
Insert: "finance"

4. Page 6, line 6.
Following: "of the"
Strike: "service"
Insert: "finance"

5. Page 7, line 6.
Following: "a"
Strike: "service"
Insert: "finance"

6. Page 7, line 8.
Following: "The"
Strike: "service"
Insert: "finance"

7. Page 7, line 16.
Following: "THE"
Strike: "service"
Insert: "finance"
Following: "the"
Strike: "nominal"

8. Page 7, line 17.
Following: "]lis"
Strike: "an additional"
Insert: "a service"

9. Page 7, line 18.
Following: "agreement"
Insert: "."
Strike: "which"
Insert: "The service charge of $12.50"

10. Page 7, line 22.
Following: "unearned"
Strike: "service"
Insert: "finance"

11. Page 8, line 1.
Following: "proportion of the"
Strike: "service"
Insert: "finance"

12. Page 11, following line 3.
Insert: "Section 13. Exceptions. [This act] does not apply to any insurance company or insurance companies affiliated under the same management and control authorized to do business in this state which provide installment premium payments programs at no interest to policyholders or to an insurance agent licensed to do business in this state on policies written by the agent or issued by the company or companies."

Renumber: subsequent section

13. Page 11, line 5.
Following: "through"
Strike: "12"
Insert: "13"

14. Page 11, line 7.
Following: "through"
Strike: "12"
Insert: "13"

BE CONCURRED IN AS AMENDED

March 12, 1981

SENATE BILL 239

THE HOUSE BUSINESS AND INDUSTRY COMMITTEE amends SB 239 in the third reading copy as follows: (Corrected Copy)

1. Title, line 12.
Following: "PREMIUMS;"
Strike: "AND"

2. Title, line 13.
Following: "INTEREST"
Insert: "; AND PROVIDING FOR CERTAIN EXCEPTIONS"

3. Page 2, line 7.
Following: "a"
Strike: "service"
Insert: "finance"

4. Page 6, line 6.
Following: "of the"
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March 12, 1981

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12. Page 11, following line 3.
Insert: "Section 13. Exceptions. [This act] does not apply to any insurance company or insurance companies affiliated under the same management and control authorized to do business in this state which provide installment premium payments programs at no interest to policyholders or to an insurance agent licensed to do business in this state on policies written by the agent or issued by the company or companies."

Renumber: subsequent section

13. Page 11, line 5.
Following: "through"
Strike: "12"
Insert: "13"

14. Page 11, line 7.
Following: "through"
Strike: "12"
Insert: "13"

BE CONCURRED IN AS AMENDED

SENATE BILL NO. 239

INTRODUCED BY HAZELBAKER

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING CREATION OF INSURANCE PREMIUM FINANCE COMPANIES; PROVIDING FOR LICENSES, FEES, AND RENEWALS; PROVIDING FOR INVESTIGATION OF APPLICANTS; PROVIDING FOR REVOCATION AND SUSPENSION OF LICENSES; REQUIRING MAINTENANCE OF RECORDS; PROVIDING FOR THE CONTENT, FORM, AND DELIVERY OF PREMIUM FINANCE AGREEMENTS; ESTABLISHING METHODS OF COMPUTING CHARGES; REGULATING DELINQUENCY CHARGES; PROVIDING FOR CANCELLATION UPON DEFAULT; REQUIRING RETURN OF UNEARNED PREMIUMS; ~~AND~~ PROVIDING FOR SECURITY INTEREST; AND PROVIDING FOR CERTAIN EXCEPTIONS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [This act] may be cited as the "Insurance Premium Finance Company Act".

Section 2. Definitions. As used in [this act], the following definitions apply:

(1) "Insurance premium finance company" means a person engaged in the business of entering into premium finance agreements with insureds or of acquiring such premium finance agreements from insurance agents, brokers, or other premium finance companies.

(2) "Licensee" means a premium finance company holding a license issued by the commissioner under [this act].

(3) "Premium finance agreement" means an agreement by which an insured or prospective insured promises to pay to a premium finance company the amount advanced or to be advanced under the agreement to an insurer or to an insurance agent or broker in payment of premiums on an insurance contract, together with a ~~service~~ FINANCE charge as authorized by [this act], and as security therefor the insurance premium finance company receives an assignment of the unearned premium.

Section 3. License -- required -- fee -- renewal of license. (1) Except as provided in subsection (4), no person may engage in the business of financing insurance premiums without first having obtained a license as a premium finance company from the commissioner. Any person who engages in the business of financing insurance premiums in the state without obtaining a license as provided under [this act] is, upon conviction, guilty of a misdemeanor.

(2) The annual license fee is $100. A license may be renewed as of January 1 each year, upon payment of the fee of $100. The license fee shall be paid to the commissioner.

(3) The person to whom the license or the renewal thereof is issued shall file sworn answers, subject to the penalties of perjury, to such interrogatories as the

REFERENCE BILL

commissioner may require. The commissioner may, at any time, require the applicant fully to disclose the identity of all stockholders, partners, officers, and employees, and he may, in his discretion, refuse to issue or renew a license in the name of any firm, partnership, or corporation if he is not satisfied that any officer, employee, stockholder, or partner thereof who may materially influence the applicant's conduct meets the standards of [this act].

(4) No person other than a savings and loan association, bank, trust company, or licensed ~~sales~~ finance company, credit union, or resident insurance agent who, within 15 days after entering into an insurance premium finance agreement, transfers the agreement to a licensee or to any of the organizations exempt under this subsection may engage in the business of entering into, acquiring, or holding insurance premium finance agreements unless licensed to do so by the commissioner.

Section 4. Investigation of applicant -- qualifications -- hearing. (1) Upon the filing of an application and the payment of the license fee, the commissioner shall make an investigation of each applicant and shall issue a premium finance company license if the applicant is qualified in accordance with [this act]. If the commissioner does not so find, he shall within 30 days after he has received the application, at the request of the

applicant, give the applicant a full hearing.

(2) The commissioner shall issue or renew a license as may be applied for when he is satisfied that the person to be licensed:

(a) is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for;

(b) has a good business reputation and has had experience, training, or education so as to be qualified in the business for which the license is applied for; and

(c) if a corporation, is a corporation incorporated under the laws of the state or a foreign corporation authorized to transact business in the state.

Section 5. License revocation -- suspension. The commissioner may revoke or suspend the license of a premium finance company when and if after investigation it appears to the commissioner that:

(1) a license issued to the company was obtained by fraud;

(2) there was misrepresentation in the application for the license;

(3) the holder of the license has otherwise shown himself untrustworthy or incompetent to act as a premium finance company; or

(4) the company has violated any provisions of [this

act].

Section 6. Records required of licensees -- form -- inspection. (1) Every premium finance company shall maintain records of its premium finance transactions, and the records shall be open to examination and investigation by the commissioner. The commissioner may at any time require the company to bring such records as he may direct to the commissioner's office for examination.

(2) Every premium finance company shall preserve its records of premium finance transactions for at least 3 years after making the final entry in respect to any premium finance agreement. The records may be preserved in photographic form.

Section 7. Premium finance agreements -- contents -- form -- delivery. (1) A premium finance agreement shall:

(a) be dated, signed by the insured or by any person authorized in writing to act in behalf of the insured, and the printed portion thereof shall be in at least 8-point type;

(b) contain the name and place of business of the insurance agent negotiating the related insurance policy, the name and residence or the place of business of the insured as specified by him, the name and place of business of the premium finance company to which payments are to be made, and a description of the insurance policies involved

and the amount of the premium therefor; and

(c) set forth when applicable:

(i) the total amount of the premiums;

(ii) the amount of the downpayment;

(iii) the principal balance (the difference between the items enumerated in subsections (1)(c)(i) and (1)(c)(ii));

(iv) the amount of the ~~service~~ FINANCE charge;

(v) the balance payable by the insured (the sum of the items enumerated in subsections (1)(c)(iii) and (1)(c)(iv)); and

(vi) the number of installments required, the amount of each installment expressed in dollars, and the due date or period thereof.

(2) The items set out in subsection (1)(c) need not be stated in the sequence or order in which they appear in that subsection, and additional items may be included to explain the computations made in determining the amount to be paid by the insured.

(3) The information required by subsection (1) may only be required in the initial agreement if the premium finance company and the insured enter into an open end credit transaction, which is defined as a plan prescribing the terms of credit transactions that may be made thereunder from time to time and under the terms of which a finance charge may be computed on the outstanding unpaid balance

from time to time thereunder.

(4) The premium finance company or the insurance agent shall deliver to the insured or mail to him at his address shown in the agreement a complete copy of the agreement.

Section 8. Charges for premium financing regulated -- method of computation. (1) A premium finance company may not charge, contract for, receive, or collect a ~~service~~ FINANCE charge other than as permitted by [this act].

(2) The ~~service~~ FINANCE charge must be computed on the balance of the premiums due (after subtracting the down payment made by the insured in accordance with the premium finance agreement) from the effective date of the insurance coverage for which the premiums are being advanced to and including the date when the final payment of the premium finance agreement is payable.

(3) ~~The~~ NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE ~~service~~ FINANCE charge may not exceed interest at the ~~nominal~~ annual rate of 21%, plus ~~an additional~~ A SERVICE charge of $12.50 per premium finance agreement, ~~which~~ THE SERVICE CHARGE OF $12.50 need not be refunded upon cancellation or prepayment.

(4) An insured may prepay his premium finance agreement in full at any time prior to the due date of the final payment and in such event the unearned ~~service~~ FINANCE charge shall be refunded. ~~The amount of any such refund must~~

~~be calculated in accordance with the rule commonly known as the "rule of 78" and shall represent at least as great a proportion of the service FINANCE charge, if any, as the sum of the periodic balances after the month in which prepayment is made bears to the sum of all periodic balances under the schedule of payments in the agreement.~~

Section 9. Delinquency charges regulated. (1) A premium finance agreement may provide for the payment by the insured of a delinquency charge of $1 to a maximum of 5% of the delinquent installment but not to exceed $5 on any installment that is in default for 5 days or more.

(2) If the default results in the cancellation of any insurance contract listed in the agreement, the agreement may provide for payment by the insured of a cancellation charge equal to the difference between any delinquency charge or default charge imposed with respect to the installment in default and $5. A premium finance agreement may also provide for the payment of attorney's fees and court costs if the agreement is referred for collection to an attorney not a salaried employee of the insurance premium finance company.

Section 10. Cancellation of insurance upon default. (1) When a premium finance agreement contains a power of attorney or other authority enabling the insurance premium finance company to cancel any insurance contract listed in

the agreement, the insurance contract or contracts may not be canceled by the premium finance company unless such cancellation is effectuated in accordance with this section.

(2) Not less than 10 days' written notice must be mailed to the insured setting forth the intent of the insurance premium finance company to cancel the insurance contract unless the default is cured prior to the date stated in the notice. The insurance agent or broker indicated on the premium finance agreement shall also be mailed 10 days' notice of this action.

(3) Pursuant to the power of attorney or other authority referred to above, the insurance premium finance company may cancel on behalf of the insured by mailing to the insurer written notice stating when thereafter the cancellation shall be effective, and the insurance contract shall be canceled as if such notice of cancellation had been submitted by the insured himself but without requiring the return of the insurance contract. If the insurer or its agent does not provide the insurance premium finance company with a specific mailing address for the purpose of receipt of the above notice, mailing by the insurance premium finance company to the insurer at the address that is on file and of record with the commissioner is considered sufficient notice under this section. The insurance premium finance company shall also mail a notice of cancellation to

the insured at his last-known address and to the insurance agent or broker indicated on the premium finance agreement.

(4) All statutory, regulatory, and contractual restrictions providing that the insurance contract may not be canceled unless notice is given to a governmental agency, mortgagee, or other third party apply whenever cancellation is effected under the provisions of this section. The insurer shall give the prescribed notice in behalf of itself or the insured to any governmental agency, mortgagee, or other third party on or before the second business day after the day it receives the notice of cancellation from the premium finance company and shall determine the effective date of cancellation taking into consideration the number of days' notice required to complete the cancellation.

Section 11. Return of unearned premiums. (1) Whenever a financed insurance contract is canceled, the insurer shall return whatever gross unearned premiums are due under the insurance contract to the premium finance company for the account of the insured or insureds.

(2) If the crediting of the return premiums to the account of the insured results in a surplus over the amount due from the insured, the premium finance company shall refund the excess to the insured, except that no refund is required if such excess amounts to less than $1.

Section 12. Agreement effective as security interest.

No filing of the premium finance agreement or recording of a premium finance transaction shall be necessary to perfect the validity of the agreement as a secured transaction as against creditors, subsequent purchasers, pledgees, encumbrancers, successors, or assigns.

SECTION 13. EXCEPTIONS. [THIS ACT] DOES NOT APPLY TO ANY INSURANCE COMPANY OR INSURANCE COMPANIES AFFILIATED UNDER THE SAME MANAGEMENT AND CONTROL AUTHORIZED TO DO BUSINESS IN THIS STATE WHICH PROVIDE INSTALLMENT PREMIUM PAYMENTS PROGRAMS AT NO INTEREST TO POLICYHOLDERS OR TO AN INSURANCE AGENT LICENSED TO DO BUSINESS IN THIS STATE ON POLICIES WRITTEN BY THE AGENT OR ISSUED BY THE COMPANY OR COMPANIES.

Section 14. Codification instruction. Sections 1 through ~~12~~ 13 are intended to be codified as an integral part of Title 33, and the provisions of Title 33 apply to sections 1 through ~~12~~ 13.

-End-